IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 341 OF 2002

1. Moga Ganesh Gaunkar,
   widow,

2. Pracash Ganesh Gauncar,
   minor,

3. Asha Ganesh Gauncar,
   minor,

4. Sukhanti Ganesh Gauncar,
   minor.
   Petitioner nos. 2 to 4
   through their mother
   and next friend Moga
   Ganesh Gauncar, all r/o
   H.N.295, Ziltawaddo,
   Gaundogrem, Canacona, Goa. ...Petitioner

Versus

1. State of Goa,
   through the Chief
   Secretary, Secretariat,
   Panaji, Goa,

2. Assistant Engineer,
   Electricity Department,
   Canacona, Goa,

3. Ramcrisna Govinda Desai,
   aged 40 years, r/o
   Gaundorem, Canacona,

4. Smt. Abole Tolu Gaunkar,

5. Kamal Dhavlo Velip,
   both r/o Karve,
   Gaundogrem, Canacona,

6. Smt. Rekha Kushali
   Gaunkar, r/o Nuvem,
   Shristhal, Canacona,

7. Smt. Tulsi R. Gaunkar,
   r/o Chapoli, Canacona, Goa,

8. Shabu Thoto Gaunkar,

9. Ram Cuiro Gaunkar,

10. Shaba Sucdo Gaunkar,

11.Deu Bombo Gaunkar,

12.Sudhakar Dhacu Gaunkar,

13.Ulhas Arjun Gaunkar,

Respondent nos. 8 to 13
r/o Ziltawaddi, Gaundongrem
Canacona, Goa, and

14.Malikarjun Devalaya of
Gaondongrem, with
office at Gaundongrem,
Canacona. ...Respondents.

Shri M. B. D'Costa and Shri J. A. Lobo, advocate for the petitioners.

Ms. S. Linhares, Addl. Govt. Advocate for respondent nos. 1 and 2.

Sri R. G. Bale, advocate for respondent nos. 4 to 13 (absent).

CORAM : F. I. REBELLO, J.

DATE : 26th June, 2003.

ORAL JUDGMENT

Rule. Attempts have been made to serve the plaintiff/respondent no.3. Respondent no.3 who was the plaintiff had given his no objection for production of the survey document. The other respondents are plaintiffs before the trial Court.

2. The original defendant no.3 since deceased, now represented by the petitioners who are his legal representatives, was allowed to amend the written statement by Order dated 6th April, 2002. At that time evidence had already commenced. An application for production of additional documents was moved by the defendant no.3 by his application of 24th June, 2002. On behalf of the plaintiffs

their learned counsel opposed the production of the private plan prepared by one Benedito Carvalho, but gave their no objection to the production of the survey plan. The trial Court by the Order of 8th August, 2002, recorded that plaintiff in the suit had opposed the production of the document. The trial Court thereafter relying on the amendment to the Civil Procedure Code held that such an application was not maintainable.

3. It is not necessary to go into the various aspects of the matter, including the amendment to the Civil Procedure Code. The plaintiff in the suit had no objection to the production of a public document. The defendants had been permitted to amend the written statement on 6th April, 2002. At that time evidence had already commenced. In these facts and circumstances it was always within the jurisdiction of the trial Court to permit the parties to lead evidence which was undisputed.

Considering the above, Rule made absolute accordingly, inasmuch as the Order dated 8th August, 2002 to the extent it has rejected the production of the survey document, is set aside. The document be taken on record. In the circumstance of the case no order as to costs.

F. I. REBELLO, J.